

Message Text

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ORIGIN EA-09

INFO OCT-01 ISO-00 L-03 CIAE-00 INR-07 NSAE-00 PM-04

NSC-05 SP-02 SS-15 OMB-01 TRSE-00 MC-02 EB-07 IGA-02

ACDA-07 /065 R

DRAFTED BY DOD/DSAA:JBILLINGS:MGH
APPROVED BY EA:RHMILLER
DOD/ISA:MABRAMOWITZ
DOD/DSAA:WBLIGON
OSD/GC:HHALMOND
L/EA:EVERVILL L/PM:TABOREK
PM/ISP:JLEONARD
EA/TB:GBROBERT
PM/ISO:JKIMBALL
PM/SAS:JNOTARJIACOMO

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R 170048Z JUL 76
FM SECSTATE WASHDC
TO AMEMBASSY BANGKOK
CINCPAC HONO
INFO SECDEF
CSA
JCS
COMUSMAC T

S E C R E T STATE 177353

JOINT STATE/DEFENSE MESSAGE/CINCPAC ALSO FOR POLAD

E.O. 11652: GDS

TAGS: MMOL, MILI, PFOR, TH, US

SUBJECT: U.S. RESIDUAL ACTIVITIES IN THAILAND - AIT

REF: BANGKOK 19159

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1. PLEASE AMEND THE DRAFT MEMORANDUM OF AGREEMENT ON AIT

TO READ AS FOLLOWS: MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE ROYAL THAI GOVERNMENT CONCERNING STORAGE IN ROYAL THAI GOVERNMENT FACILITIES OF AMMUNITION BELONGING TO THE UNITED STATES OF AMERICA KNOWN AS AMMUNITION IN THAILAND (AIT). THE UNDERSIGNED REPRESENTATIVES OF THE ROYAL THAI GOVERNMENT (RTG) AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA (USG) IN RECOGNITION OF THE MUTUAL SECURITY INTERESTS OF BOTH COUNTRIES, HAVE AGREED UPON THE RETENTION IN STORAGE IN THAILAND UNDER UNITED STATES TITLE AND CUSTODY OF THE MUNITION STOCKS KNOWN AS AMMUNITION IN THAILAND (AIT) ON THE FOLLOWING TERMS:

--1. THE TERM AMMUNITION IN THAILAND (AIT) REFERS TO APPROXIMATELY 14,480 SHORT TONS OF UNITED STATES TITLED MUNITIONS STORED IN THE FACILITY KNOWN AS THE KORAT AMMUNITION STORAGE DEPOT (KASD), LOCATED IN THE VICINITY OF KORAT, THAILAND, AND ANY OTHER USG-TITLED

MUNITIONS WHICH ENTER THAILAND BY MUTUAL AGREEMENT UNDER THE TERMS OF THIS AGREEMENT.

--2. THE RTG AGREES TO PURCHASE THE AIT PROGRAM STOCKS AS-IS, WHERE-IS IN INCREMENTS OVER A SPECIFIED PERIOD OF TIME, NOT TO EXCEED THREE YEARS FROM THE DATE OF THIS MEMORANDUM OF AGREEMENT. THE RTG WILL, WITHIN SIXTY DAYS FROM THE DATE OF THIS MEMORANDUM OF AGREEMENT, OFFICIALLY NOTIFY THE USG OF THE SPECIFIC TYPES AND QUANTITIES OF AIT AMMUNITION WHICH THE RTG INTENDS TO PURCHASE OVER THE THREE-YEAR PERIOD. ALL ITEMS NOT LISTED IN THE OFFICIAL NOTIFICATION MAY BE IMMEDIATELY REMOVED FROM THAILAND BY THE USG. THE RTG WILL PURCHASE AT LEAST ONE INCREMENT OF AIT AMMUNITION WITHIN ONE YEAR FROM THE DATE OF THIS MEMORANDUM. THIS INITIAL INCREMENT WILL HAVE A VALUE EQUAL TO AT LEAST ONE-QUARTER OF THE THEN-CURRENT TOTAL VALUE OF THE AIT STOCKS WHICH THE RTG INDICATES IT DESIRES TO PURCHASE DURING THE THREE-YEAR PERIOD. THE RTG WILL PURCHASE AT LEAST ONE-HALF OF THE REMAINING AIT STOCKS DURING THE SECOND YEAR AND THE REMAINDER DURING THE THIRD YEAR. ANY FAILURE ON THE PART

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OF THE RTG TO PURCHASE ANY INCREMENT OF THE AIT AMMUNITION IN ACCORDANCE WITH THE FOREGOING SCHEDULE MAY RESULT IN IMMEDIATE REMOVAL FROM THAILAND OF AIT STOCKS AT A VALUE EQUAL TO THE REMAINDER OF THAT PARTICULAR INCREMENT.

--3. THE COST AND OTHER TERMS AND CONDITIONS OF THE PURCHASE OF EACH INCREMENT OF AMMUNITION WILL BE DEPENDENT UPON UNITED STATES LAWS AND POLICY APPLICABLE AT THE

TIME OF PURCHASE OF THAT INCREMENT. THE RTG WILL NOT BE COMMITTED IN ADVANCE TO FUTURE PURCHASES ON TERMS UNACCEPTABLE TO THE RTG AT THE TIME OF PURCHASE. EACH PURCHASE WILL BE EFFECTED BY MEANS OF A LETTER OF OFFER AND ACCEPTANCE (DD FORM 1513) ISSUED IN ACCORDANCE WITH THE U.S. FOREIGN MILITARY SALES PROGRAM.

--4. THE RTG AGREES TO PERMIT SUFFICIENT UNITED STATES PERSONNEL TO REMAIN IN THAILAND TO ASSURE ADEQUATE PROTECTION, CONTROL, MAINTENANCE, ACCOUNTABILITY AND QUALITY ASSURANCE (SURVEILLANCE) OF AIT PROGRAM STOCKS. ALL UNITED STATES PERSONNEL WILL HAVE THE SAME RIGHTS, PRIVILEGES AND IMMUNITIES AS JOINT UNITED STATES MILITARY ADVISORY GROUP, THAILAND (JUSMAGTHAI) PERSONNEL.

--5. UPON COMPLETION OF RTG AIT PURCHASES, THE UNITED STATES MILITARY PERSONNEL ASSOCIATED WITH THE AIT PROGRAM WILL BE PROMPTLY WITHDRAWN ALONG WITH ANY REMAINING STOCKS.

--6. RTG AGREES TO BEAR ALL COSTS INCIDENT TO RETENTION OF AIT STOCKS IN THAILAND. SUCH COSTS INCLUDE, BUT ARE NOT LIMITED TO (1) PAY, ALLOWANCES AND TRAVEL OF THAI PERSONNEL UNDER CONTRACT TO THE USG TO PROVIDE SECURITY, MAINTENANCE, SURVEILLANCE, ACCOUNTING, AND FIRE PROTECTION, (2) UTILITIES, AND (3) EQUIPMENT AND MATERIALS NECESSARY FOR MAINTENANCE AND REPAIR OF AIT AMMUNITION, REGARDLESS OF WHETHER SUCH MATERIALS COME FROM U.S. OR THAI SOURCES. THESE COSTS WILL BE CHARGED TO THE RTG UNDER A SEPARATE LETTER OF OFFER AND ACCEPTANCE ISSUED UNDER FMS PROCEDURES.

--7. STOCKS PURCHASED BY THE RTG MAY BE RETAINED IN THE
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STORAGE FACILITY OR MAY BE REMOVED BY THE RTG. THE RTG WILL BEAR THE COSTS ASSOCIATED WITH THE MOVEMENT/REMOVAL OF THE AMMUNITION.

--8. THE RTG AGREES THAT, PRIOR TO PURCHASE, AIT PROGRAM STOCKS REMAIN UNDER THE CUSTODY AND TITLE OF THE UNITED STATES OF AMERICA, WHOSE REPRESENTATIVES HAVE THE RIGHT TO TAKE INVENTORY OF AND HAVE ACCESS TO THE AMMUNITION SO STORED.

--9. ALL AIT STOCKS (USG-TITLED) WILL BE DISTINCTIVELY MARKED AND SEGREGATED FROM AMMUNITION OWNED BY THE RTG.

--10. THE USG MAY, FROM TIME TO TIME, WITHDRAW USG-TITLED AMMUNITION STORED IN THAI FACILITIES TO ITS

OWN STORAGE FACILITIES IN THAILAND OR ELSEWHERE. HOWEVER, WITH RESPECT TO AIT WHICH THE RTG HAS AGREED TO PURCHASE, THE USG UNDERTAKES NOT TO WITHDRAW SUCH USG-TITLED AMMUNITION EXCEPT IN THE EVENT OF URGENT U.S. OPERATIONAL REQUIREMENTS. RTG AGREES TO PROVIDE DUTY-FREE CUSTOMS CLEARANCE FOR REMOVAL OF USG-TITLED AMMUNITION FROM THAILAND IMMEDIATELY UPON RECEIPT OF A USG REQUEST.

--11. THE RTG AGREES TO PROVIDE SECURITY FOR THE AMMUNITION AND FACILITIES MAINTENANCE AND FIRE PROTECTION FOR THE STORAGE FACILITIES.

--12. THE RTG AGREES TO PROVIDE HANDLING, STORAGE AND EXPLOSIVE ORDNANCE DISPOSAL (EOD) SUPPORT FOR AIT STOCKS.

--13. AMMUNITION MAINTENANCE, STOCK RECORD ACCOUNTING AND QUALITY ASSURANCE (SURVEILLANCE) REMAIN THE RESPONSIBILITY OF THE USG.

--14. THE AIT AMMUNITION WILL BE STORED IN ACCORDANCE WITH UNITED STATES SAFETY REQUIREMENTS FOR AMMUNITION STORAGE. IF APPROPRIATE, THE USG MAY AGREE TO WAIVE THOSE SAFETY REQUIREMENTS IN PARTICULAR CIRCUMSTANCES WHEN OFFICIALLY REQUESTED BY THE RTG.

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--15. THE RTG AGREES TO RECEIVE, STORE AND TRANSPORT UNITED STATES OWNED AMMUNITION IN COMPLIANCE WITH UNITED STATES MILITARY STANDARDS.

--16. THE RTG AGREES THAT UNITED STATES OWNED STOCKS WILL NOT BE MOVED FROM ONE LOCATION TO ANOTHER WITHOUT PRIOR APPROVAL FROM A UNITED STATES OFFICIAL WHO WILL BE SPECIFICALLY DESIGNATED.

--17. THE USG DOES NOT GUARANTEE THE REPLACEMENT OF ANY ITEM IN THE STOCKPILE WHICH MAY BECOME UNSERVICEABLE FOR ANY CAUSE, WHICH IS REQUIRED FOR USE BY UNITED STATES MILITARY FORCES OR WHICH MAY DISAPPEAR AS A RESULT OF THEFT, FIRE, NATURAL DISASTER OR ANY OTHER CAUSE.

--18. THE USG AGREES THAT SHOULD AIT STOCKS BE LOST AS A DIRECT RESULT OF NATURAL DISASTER AND SO LONG AS UNITED STATES MILITARY SAFETY STANDARDS HAVE BEEN MET, THE USG WILL NOT HOLD THE RTG PECUNIARILY LIABLE. THIS AGREEMENT AND UNDERTAKING ON LIMITATION OF LIABILITY SHALL NOT APPLY TO ACTS OF SABOTAGE, THEFT, MYSTERIOUS DISAPPEAR-

ANCES, OR LOSS RESULTING FROM NEGLIGENCE ON THE PART OF THE RTG OR ITS OFFICIALS.

--19. THE USG SHALL NOT BE RESPONSIBLE, NOR LIABLE, FOR ANY DAMAGE, INJURY OR HARM ARISING OUT OF OR IN ANY WAY ASSOCIATED WITH THE AMMUNITION STORED AT KASD. THE RTG WILL PROTECT, INDEMNIFY AND HOLD THE USG AND ITS PERSONNEL ASSIGNED TO KASD HARMLESS FROM ANY AND ALL CLAIMS RELATING TO SUCH DAMAGE, INJURY, OR HARM.

--20. SHOULD THE USG WITHDRAW ANY OR ALL OF THE U.S. OWNED AIT STOCK, THE RTG WILL PROVIDE TRANSPORTATION FROM THE STORAGE FACILITY TO THE ON-LOADING PORT AND STEVEDORING AND PORT OPERATIONS SERVICES; THE USG SHALL REIMBURSE THE RTG FOR THE COST OF SUCH TRANSPORTATION AND SERVICES.

--21. A COORDINATING GROUP CONSISTING OF EQUAL REPRESENTATION APPOINTED BY BOTH GOVERNMENTS WILL BE CONSTITUTED TO COORDINATE USG/RTG RESPONSIBILITIES UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT AND WILL PREPARE NECESSARY IMPLEMENTING MEASURES. SUCH MEASURES SHALL BE

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SUBJECT TO REVIEW BY THE USG BEFORE THEY ENTER INTO FORCE.

2. FYI: THE US PERSONNEL ASSOCIATED WITH THE AIT STOCKPILE (ITEM 4) WILL BE CONSIDERED TO BE UNDER THE JUSMAG UMBRELLA FOR RTG PURPOSES BUT WILL NOT BE CARRIED ON THE JUSMAG MANNING DOCUMENT. END FYI.

--22. THIS MEMORANDUM OF AGREEMENT WILL ENTER INTO FORCE ON THE DATE OF SIGNATURE HEREOF AND SHALL REMAIN IN FORCE UNTIL TERMINATED BY MUTUAL AGREEMENT BETWEEN THE TWO GOVERNMENTS. SIGNED AT BANGKOK IN THE ENGLISH AND THAI LANGUAGES, BOTH TEXTS BEING EQUALLY AUTHENTIC, THIS DAY OF END TEXT.

3. THE TEXT OF THE FOREGOING MOA, WITH OR WITHOUT CHANGES, SHOULD ONLY BE APPROVED ON AN AD REFERENDUM BASIS. KISSINGER

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